

211 (2 cases)

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Date of Decision: 05.11.2020

1. CRM-M-27695-2020

Jai Vikas Kansal and others

Petitioner

Versus

State of Haryana and another

Respondents

2. CRM-M-27496-2020

Jai Vikas Kansal

Petitioner

Versus

State of Haryana and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Johan Kumar, Advocate for the petitioners.

Mr. Pankaj Mulwani, Deputy Advocate General, Haryana.

Mr. Ashish Gupta, Advocate for the respondent No.2.

Avneesh Jhingan, J. (Oral)

The matter is taken up for hearing through video conference due to COVID-19 situation.

These are two petitions for quashing of two FIRs No. 415, dated 30.09.2018 under Sections 323, 34, 406, 498-A and 506 of the Indian Penal Code, 1860 ('IPC') registered at Police Station City Tohana, District

Fatehabad and No. 10, dated 06.01.2020 under Section 506 of IPC and Section 67 of the Information Technology Act, 2000 registered at Police Station City Tohana, District Fatehabad, on the basis of compromise dated 04.03.2020.

The FIRs are the result of a matrimonial dispute. The marriage has been dissolved by mutual consent under Section 13 B of the Hindu Marriage Act, 1955 on 16th September, 2020. The parties have decided to bury the old differences and to proceed with their future lives.

Learned counsel for the private respondent has no objection.

Learned State counsel submits that some of the sections invoked are not compoundable.

Pertinent to note that some of the offences are not compoundable but the parties have moved to this Court on the basis of amicable resolution arrived at by them.

The Supreme Court in *Jitendra Raghuvanshi and others v. Babita Raghuvanshi and another*, 2013 (2) SCC (Cri) 302 held:-

“10. As stated earlier, it is not in dispute that after filing of a complaint in respect of the offences punishable under Sections 498A and 406 of IPC, the parties, in the instant case, arrived at a mutual settlement and the complainant also has sworn an affidavit supporting the stand of the appellants. That was the position before the trial Court as well as before the High Court in a petition filed under Section 482 of the Code. A perusal of the impugned order of the High Court shows that because the mutual settlement arrived at between the parties relate to non-compoundable offence, the court proceeded on a wrong premise that it cannot be compounded and dismissed the petition filed under Section 482. A perusal of the petition before the High Court shows that the

application filed by the appellants was not for compounding of non-compoundable offences but for the purpose of quashing the criminal proceedings.

11. The inherent powers of the High Court under Section 482 of the Code are wide and unfettered. In B.S. Joshi (supra), this Court has upheld the powers of the High Court under Section 482 to quash criminal proceedings where dispute is of a private nature and a compromise is entered into between the parties who are willing to settle their differences amicably. We are satisfied that the said decision is directly applicable to the case on hand and the High Court ought to have quashed the criminal proceedings by accepting the settlement arrived at.

12. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

Considering that entire litigation was result of a dispute between husband and wife who have parted their ways by dissolving their marriage, no useful purpose would be served by forcing them into a grinding stone of trial. It would not only affect their future but would create future complications in their lives and allowing continuance of the criminal action would be fruitless.

To meet the ends of justice, the FIRs mentioned above and any consequential proceedings are quashed.

It has been brought to the notice of the Court that passport and mobile phone of the petitioner, in one of the FIR, are in possession of police due to these proceedings.

Needless to say that the petitioner would be at liberty to make a request for release of passport and mobile phone, the same would be considered in accordance with law.

**[AVNEESH JHINGAN]
JUDGE**

5th November, 2020

pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |